

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:	)	Docket HWCA <u>98/99-6002</u>
	)	
Naval Air Weapons Station	)	CONSENT ORDER
1 Administration Circle	)	
China Lake, CA 93555-6001	)	
EPA ID No. CA2170023152	)	Health and Safety Code
	)	Section 25187
Respondent.	)	
	)	

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The State Department of Toxic Substances Control  
(Department) and China Lake Naval Air Weapons Station, China Lake  
(Respondent) enter into this Consent Order and agree as follows:

1. Respondent generates, handles, treats, stores,  
and/or disposes of hazardous waste at the following site: Naval  
Air Weapons Station, China Lake, California (Site).

2. The Department inspected the Site on April 8, 1998,  
and May 2, 2000.

3. The Department alleges the following violations:

3.1. Respondent violated Health and Safety Code  
section 25201 (a) in that hazardous waste containers were stored  
over 90 days in an unpermitted or otherwise unauthorized storage  
area, to wit:

a. As of April 8, 1998, six (6) 55-gallon  
containers of hazardous waste (ethylene glycol/silicone) had  
been stored in Site 56, Area R, Building 31523 for one and a  
half years;

b. As of April 8, 1998, a drum of cutting fluid concentrate with an accumulation date of December 10, 1997 had been stored in the Michelson Labs.

c. On or about August 5, 1998, 26 drums of hazardous wastes containing lead-acid batteries, jet fuel/oil, aerosol cans and contaminated soil were discovered at the Junction Ranch and Lower Baker 90-day sites. The wastes had been stored for more than a year.

3.2. Respondent violated California Code of Regulations, title 22, section 66262.11 in that on or about April 8, 1998, Respondent failed to make a hazardous waste determination on the six (6) drums of hazardous waste stored at Site 56, Area R, Building 31523.

3.3. Respondent violated California Code of Regulations, title 22, section 66265.31 in that on or about April 8, 1998, Respondent failed to maintain and operate the facility to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste or constituents to air, soil or surface water which could threaten human health or the environment, to wit: hazardous waste glycol/silicone leaked from a deteriorated 55-gallon drum on a containment pad.

3.4. Respondent violated California Code of Regulations, title 22, section 66265.171 in that on or about April 8, 1998, Respondent failed to transfer hazardous waste stored in Site 56, Area R, Building 31523 from a leaking and deteriorated container to a container in good condition.

3.5. Respondent violated California Code of Regulations, title 22, sections 66270.30(a), 66270.30(1) (1) and 66270.41 in that on or about May 2, 2000, Respondent failed to notify and obtain approval from DTSC, prior to the removal and replacement of a concrete berm at the permitted Hazardous Waste Transfer and Storage area.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations. Furthermore, this Consent Order shall not prevent the Department from introducing, in any later enforcement action or other proceeding, evidence of facts supporting the existence of the violations alleged above. Respondent reserves all rights to object and contest as to these allegations in any later enforcement action or other proceeding.

9. By entering into this Consent Order, Respondent does not admit any of the violations alleged above.

SCHEDULE FOR COMPLIANCE

10. Respondent has demonstrated that the violations stated in Sections 3.1 through 3.5 above have been corrected. No further corrective action or submittal is required.

#### PAYMENTS

11. Respondent agrees to pay a total of \$40,000, of which \$19,813 is a penalty, and \$20,187 is reimbursement of the Department's costs. Payment shall be made in accordance with paragraphs 11.1 through 11.4, below.

11.1 Respondent agrees to send a representative of Respondent whose duty station is the Site to complete Modules I through V of the California Compliance School (CCS). At the time that Respondent submits a certificate of satisfactory completion of Modules I through V issued by CCS, the Department will credit Respondent \$5,000 toward the \$19,813 due as a penalty. Respondent must submit the certificate of satisfactory completion to the Department within 185 days of the effective date of this Consent Order in order to receive the \$5,000 credit toward the penalty payment. A copy of the certificate of satisfactory completion shall be sent: to:

Ms. Luz Castillo, Senior Hazardous Substances Scientist  
Statewide Compliance Division  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710

11.2 If Respondent fails to submit the CCS certificate of satisfactory completion as required, the additional penalty of \$5,000 is due and payable within 30 days from the time that the 185-day period expires. The 185-day period may be extended by a

DTSC Branch Chief upon a written request from the Respondent demonstrating good cause.

11.3 Within 45 days of the effective date of this Consent Order, Respondent shall send to the Department a check for \$35,000 (consisting of the penalty and costs, minus the credit for completing CCS). The check shall be made payable to the Department of Toxic Substances Control and shall identify the Respondent and Docket Number, as shown in the heading of this case. The check shall be sent, together with the attached Payment Voucher, to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. **Box** 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Ms. Luz Castillo, Senior Hazardous Substances Scientist  
Statewide Compliance Division  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710

Mr. Timothy E. Sullivan, Esq.  
Deputy Attorney General  
California Department of Justice  
1515 Clay Street, 20th Floor  
P.O. Box 70550  
Oakland, California 94612-0550

11.4 If Respondent fails to make payment(s) as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection, including attorneys' fees.

#### OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.6 Limitation on State use of funds collected from Federal Government: The Department agrees that, in accordance with 42 U.S.C. 6961(c), all amounts paid by Respondent pursuant to this settlement will be used by the State of California only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.

Dated: 25 Sep 2002

Alexander B. Hnarakis  
Signature of Respondent's  
Representative

ALEXANDER B. HNARAKIS, COMMANDING OFFICER, NAWs  
Typed or Printed Name and Title of  
Respondent's Representative

Dated: \_\_\_\_\_

\_\_\_\_\_  
Luz Castillo  
Senior Hazardous Substances  
Scientist  
Statewide Compliance Division  
Department of Toxic Substances  
Control